G. R. S. 59] GPB—15,000—20-12-13

GENERAL AND REVENUE SECRETARIAT.

1900-01
(Police)

File No. 106

Serial Nos. 1 — 5

Papers Filed.

Month February 1902

SUBJECT.

Irregular Procedure of arrest made by a Constable of the North Canara Police, in the Mysore Territory ——

PREVIOUS REFERENCES.	LATER REFERENCES.

Inward
P. Sethuraman

11711
12-4-01

(General Serial No. 30.)

1900.-1301.

From The Deputy Commissioner
Shimoga District

To The Secretary to Govt. of Mysore
Rev. & Rev. Department.

SECTION Dr.

FILE No. 106705-01

SERIAL No. 1

Dated 9th April 1901.

Despatched

Received

General No. 860
No. 76
} 190 .

Enclosures Number. K-2

Forwards Sagar Sub Division Magistrial Yadi No. 699 dated 29th March 1901, & reports about the illegal arrest of 5 subjects of Mysore at Kerehalli, Sorab Taluk by the Sirsi Police on the 22d March 1901.

Inl
12.4.01 Refers pasture up
DM
13/4/01

No. 900/78 in K.L.

District Magistrate's Court
Shimoga
9th April 1901.

The Secretary to the Government of Mysore
General and Revenue Departments.

Sir,

In forwarding herewith the record received with the Sagar Sub Division Magistrate's Cadi No. 497 dated 29th March 1901 I have the honour to report that in connection with a case of theft of certain things belonging to one Entappa Gowda, committed near Banavasi in the Sirsi Taluk (North Kanara) the Police Jamadar of Sirsi caused at Kerehalli, in the Sorab Taluk, the arrest of five individuals all subjects of Mysore on the night of the 22nd March 1901, without the authority of a warrant from a competent British Magistrate and that

the

the said Jamadar searched the
houses of the said individuals
and on finding with them pro-
perties worth about Rs 1611.8.-
seized them on suspicion and then
produced them before the Sorab
Assistant Magistrate. The arrest
of the accused and search of their
houses seem to have been conducted
by the said Jamadar without the
knowledge of the local Police.

As sections 5 & 8 of the
Criminal Procedure Code and
8 of the Extradition Act are
not applicable in the present case
the arrest having been made in
foreign territory and the accused
not being British Indian subjects
the British Police can only act
on the warrant of a competent
British Magistrate as prescribed
in Chief Commissioner's Notification
No. 111 dated 23rd July 1878 and
No. 6226-35 J 668 dated 18th November 1878
The action of the British Police in

the

the matter of arrest and search under
reference seems to be objectionable.

I have the honour to be
Sir,
Your most obedient servant.

T. [illegible]
District Magistrate
Shimoga

Letter No.860/78 dated 9th April 1901 from the District Magistrate of Shimoga to the Secretary to the Government of Mysore General and Revenue Departments.

In forwarding herewith the record received with the Sagar Sub Division Magistrate's Yadi No.497 dated 29th March 1901, I have the honour to report that in connection with a case of theft of certain things belonging to one Puttappa Gowda committed near Banavasi in the Sirsi Taluk (North Kanara), the Police Jamedar of Sirsi caused at Kerehalli in the Sorab Taluk the arrest of five individuals all subjects of Mysore on the night of the 22nd March 1901 without the authority of a warrant from a competent British Magistrate and that the said Jamedar searched the houses of the said individuals and on finding with them properties worth about Rs.1611-8-0 seized them on suspicion and then produced them before the Sorab Amildar-Magistrate. The arrest of the accused and the search of their houses seem to have been conducted by the said Jamedar without the knowledge of the local Police.

As sections 58 of the Criminal Procedure Code and 8 of the Extradition Act are not applicable in the present case the arrest having been made in a Foreign territory and the accused not being British Indian subjects, the British Police can only act on the warrant of a competent British Magistrate as prescribed in Chief Commissioner's Notification No.111/dated 23rd July 1878 and Government Proceedings No.6226-35/J.668 dated 18th November 1898. The action of the British Police in the matter of arrest and sear under reference seems to be objectionable.

" Copy "

H. Mavinkurve

Secretary.

No.1810 of 1901.

Karwar, 8th Aug. 1901.

The District Superintendent of

To

The District Magistrate, Kanara.

With reference to your No.3653, dated 12th/15 July 1901, I have the honour to report that second class Head constable Abdul Rahiman wallad Shek Ahmed in his explanation states, that before he searched the houses of the accused under reference he wrote and informed the Dafedar of Kupgadde station the object of his visit and requested him to render his assistance. Thereupon a police constable of the said station whose name is not known but who is a mussalman came thither; and with his as well as Shivappa police Patel of Kupgadde's help, he conducted the search of the houses of the said accused. After the completion of which and prior to the arrest of the accused the Dafedar of Kupgadde turned up and with his consent and in his presence the accused were arrested and when they were being taken before the Sorab Magistrate, the constable referred to above formed one of the escort. The fact that the said constable had helped the Jamadar at the time of the search, will it is presumed, appear from his patrol book and which it is hoped will prove that what was done by the Jamadar was not without the knowledge of assistance of the local police

There now remains the question as to why the Jamadar arrested the accused without a warrant from a British Magistrate?

As the Jamadar was not in possession of evidence for a prima facie case before he got to Kerehalli, he could not obtain the required warrants and was forced to act in the manner he did, that is, to arrest the accused when property was found in their possession, which would otherwise mean taking the risk of the accused persons absconding, and it would in all probability be the case if warrants from a British Magistrate were awaited.

I respectfully beg to add that as the Jamadar's action was bona fide and as the arrest was effected with the knowledge of the highest Police Official of the village there appears to be no serious irregularity on the part of the Jamadar if the local Police thought that the arrest was illegal they could have easily prevented the Jamadar from effecting the arrest. The failure on the part of the Local Police to prevent the arrest and the action of the Jamadar in connection with the arrest shows clearly that they do not understand the nice and peculiar intricacies of law which cannot be expected of a low Police Official.

I would here remark that if the Sorab Magistrate considered the action of the Jamadar illegal or if there were grounds to do so he certainly would have refused to record the confessions of the accused and remand them to custody from which we can presume that the Local Police were present when the accused were brought before the Magistrate. Their absence would have attracted the attention of the Magistrate at once.

Even

Even if he took no objection of the procedure which is alleged to be illegal in this case he would not have failed to make a remark at least to the effect which is absent in the report of the said Magistrate which also explains that he has approved the action of the Jamadar. If therefore his action be liberally considered taking into consideration at the same time the presence and consent of the Local Police, it can be inferred that the arrest was made indirectly by th Local Police.

I would also beg to state that this correspondence apparently has arisen owing to the Jamadar having failed to mention in his report the fact that the search and arrest wa effected with the assistance and consent of the Local Police.

The Chief Commissioner's notification &c. mentioned in the Shimoga district Magistrate's letter, I beg to state, are not known to the Police officers in this district.

In reference to para 2 of the Commissioner's No.P. 1601 of 3rd July last, I have the honour to inform you that on receipt of his No.P.145 dated 18th January last orders were issued to the Chief Constable of Sirsi and Siddapur to put a stop to the recurrence of the irregularities therein mentioned. Jamadar Abdul Rahiman admits that he was aware of those orders.

Copy attached.

I have &c.

sd. J.B. Jenkins.

Ag. Dist. Superintendent of Police,
Kanara.

No.290 of 1901.

Camp Yekambi, 8th February 1901.

Forwarded to the Chief Constables of Sirsi and Siddapur for information.

2. Both these officers should see that when they or any of the subordinates proceed to the Mysore territory that they do not transgress the procedure laid down in the Criminal Procedure Code as done lately by a Jamadar of the Sirsi Taluka. The correspondence on the subject accompanies.

Sd/ J.W. Fellowes.

District Superintendent of Police,

Kanara.

FILE No. 105 ಪೊಲೀಸ್ ೧೯೦೧

SERIAL No. 1

Submitted to the Dewan Yo,
for approval.

The paper marked on the file shows that the Madras Govt has accepted this view, but the same view is one of general application.

28/4/1901

Seen Mr
Secretary
Mysore
23.4.01

28/4/1901

No. 14356 & 26.4.01.
& 1460 Enc 3.

The 1st Asst to the Resident in Mysore.

Sir,

I am directed to forward a copy of letter no 860/78 dated the 9th instant from the District magistrate, Shimoga, together with its enclosures (to be obliging to return) in original bringing to notice that the Police Jamedar of the Sirsi Taluk in the North Canara District arrested the marginally noted individuals

× 1 Rudra bin malla
2. Rachappa bin Chennappa
3. Chennaveerah bin Fakeerappa.
4 Sivalingappa bin Adaiappa
5 Ambi bin Basanna.

searched their house
and seized property
amounting in value
to about Rs 1611-8-0
on the night of the
22nd March 1901 at
Kerehalli in the Gorab
Taluk, without the
authority of a
warrant from a
Competent British
magistrate for an offence
of theft alleged to
have been committed
near Banavasi
in the Sirsi T.K.
of the North Canara

District. The action of the Jamedar of Sirsi seems ~~was therefore~~ to have been irregular inasmuch as it is not in accordance with the procedure laid down in the correspondence ending with your letter no 5679 dated the 22nd October 98.

2. I am to request that the irregular proceedings of the Jamedar of Sirsi may be kindly brought to the notice of the Bombay Govt for such action

as may be deemed
necessary.

I have the

1.25/4
Secy:

mm
15/4.

No. 295 En.b

From Reg 1083 - J1065

C. L. S. RUSSELL, Esq., I. C. S.,
FIRST ASSISTANT TO THE RESIDENT
IN MYSORE.

To Pol

File No. 106 of 00-01 The Dewan of Mysore.

Sec. 3

Dated Bangalore, 18th January 1902.

Sir,

With reference to your Secretary's letter No. 14356/J.1460 dated the 26th April 1901, relative to certain irregularities stated to have been committed in Mysore territory by the British Police of North Kanara in connection with the arrest of 5 individuals and the search of houses and the seizure of property, I am directed to forward, for the information of the Durbar, a copy of a letter No.8001 dated 11th December 1901, from the Government of Bombay in the Judicial Department and of its enclosures on the subject.

2. The correspondence received with your letter is herewith returned.

I have the honour to be,

Sir,

Your most obedient servant,

L. Russell.

First Assistant Resident.

8/1/1902
Minutes
23-1-02

Copy of letter No.8001 dated the 11th December 190-, from the Acting Chief Secretary to the Government of Bombay to the Hon'ble the Resident in Mysore.

With reference to your letter No.2450-En-S, dated the 17th May 1901, relative to certain irregularities stated to have been committed in Mysore territory by the British Police of North Kanara in connection with the arrest of 5 individuals and the search of houses and the seizure of property, I am directed to forward herewith copy of a letter No.1810, dated the 8th August 1901, from the District Superintendent of Police, Kanara, together with a copy of the "orders" referred to therein. I am at the same time to request that in order to prevent a recurrence of such complaints, you will be so good as to obtain from the Mysore Durbar and forward to this Government a copy of the Chief Commissioner's Notification No.111, dated the 23rd July 1878 referred to in the enclosure to your letter under reply.

2. The correspondence received with your letter is herewith returned.

Draft address only

200 Pols

20

SUBJECT Pol

FILE No. 106 of 00 c

SERIAL No. 4

The First Assistant
to the Resident in
Muscat.

Dated 4th February 1902

No. 1624 Enclosure
9 1060

Sir, With reference
to the request* contained in
letter No 8001 dated 11th
December 1901, from the
Acting Chief Secretary
to the Govt of Bombay
to the address of the Hon'ble the Resident
in Muscat, copy of
which was received with
your letter No 295 dated
18th January 1902, I am
directed to forward
herewith a copy of
the Chief Commissioner's
Notification No 111 dated

2 Z/2

* This request is not repeated in the Residency letter to us, which merely communicates the Bombay letter for information.

28th July 1878, regulating the action of Magistrates and Police Officers in Mergara, in respect of criminal processes issued by Magistrates having jurisdiction in British India.

I have etc.

Secretary.

from the Mysore
July 1878.
page 196
Part I

No. 111.

The 23rd July 1878

Under the authority of H. E. the
Viceroy and Governor General in Counci
the Chief commissioner directs that
all criminal processes of what-
-soever description, when issued
by any Magistrate having Juris
-diction in any District of
British India, shall be acted
upon and executed by all
Magistrates and Police officers
in Mysore, under the same
conditions, and in the same
manner, as if such process
had been issued by a Magistrate
having jurisdiction in Mysore.

18

Police

No. 106/00 01

No. 5

To.

The District Magistr
of Thiruvarur.

Dated

No. 13069 / J. 1089 dt 6-2-0

With reference to
his letter No. 860/18 dated
9th April 01, in re
certain irregularities Stat
to have been commit
in Kerehal
in the Coorab Taluk, b
the British Police of
North Kanara, in Co
-nection with the
arrest of 5 individual
and the search of hou
and the seizure of prope
have the honour to
forward herewith for
information, copy
of letter No. 295 dated
18th

8th January 1902, from the First Assistant to the Resident in Mysore, together with copies of the enclosures as noted in the margin.

2. The enclosures read with this letter are here with returned.

By order

Secretary.

× 1. Letter No 8001 dated 11th Dec 1901 from the Actg. Chief Secretary to the Govt of Bombay to the Honble the Resident.

2. Letter No 1810 of 1901, dated 8th Aug. 1901 from the Dy Supdt of Police, Kanara to the Dy Inspr. Kanara

3. No 290 of 1901. Memo from Dy Supdt of Police, Kanara to the Chief Constables of Sirsi and Siddapur.